



# SENATE BILL 312: Referendum on Incorporating Lake James

2013-2014 General Assembly

**Committee:** Senate Finance  
**Introduced by:** Sen. Daniel  
**Analysis of:** PCS to First Edition  
S312-CSRWx-60

**Date:** June 5, 2013  
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Research Assistant

**SUMMARY:** *Senate Bill 312 incorporates the Village of Lake James in Burke County, subject to the approval of the qualified voters at an election held on November 5, 2013 and requires that an election for the initial Village Council be held at the same time as the election on incorporation.*

*The Proposed Committee Substitute (PCS) for Senate Bill 312 does the following:*

- *Makes changes to the corporate boundaries by deleting all described property west of Mallard Pointe development.*
- *Makes changes regarding commencement of tax collection. From and after the date of approval of the incorporation (was July 1, 2013), the citizens and property in the Village of Lake James shall be subject to pro-rated municipal taxes (was municipal taxes), levied for tax year 2013-2014 in accordance with the pro-rating procedure in G.S. 160A-58.10 (was levied for the year beginning July 1, 2013)*
- *Makes changes regarding ad valorem taxes where the Village Council is prohibited from approving an ad valorem tax rate greater than seven and one-half cents (7 1/2¢) per one hundred dollars (\$100.00) valuation unless the tax rate is approved by an affirmative vote of majority (was two-thirds) of the qualified voters of the Village of Lake James.*

**CURRENT LAW:** Municipalities may be created by the General Assembly, with powers and duties it deems advisable, pursuant to Article VII, Section 1 of the North Carolina Constitution.

Rule 42.3(b) of the Senate Rules requires that every legislative proposal introduced in the Senate, or received in the Senate from the House, proposing the incorporation of a municipality shall have attached to the jacket of the original bill at the time of its consideration on second or third readings by the Senate or by any committee of the Senate prior to a favorable report, a recommendation from the Municipal Incorporations Subcommittee of the Joint Legislative Committee on Local Government established by Article 20 of Chapter 120 of the General Statutes. The recommendation of that subcommittee shall be made in accordance with the provisions and criteria set forth in Article 20 of Chapter 120 of the General Statutes and shall include the findings required to be made by G.S. 120-166 through G.S. 120-170.

**BILL ANALYSIS:** Senate Bill 312 would incorporate the Village of Lake James in Burke County, subject to a referendum.

The proposed Charter of Lake James provides:

- That the Village of Lake James has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.
- A metes and bounds description of the corporate boundaries of the Village of Lake James.



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- A Village Council of five members, elected on a nonpartisan at-large basis for staggered four year terms. The mayor is to be elected from among the Council members. Salary for the Council members must be approved in a special referendum.
- A \$0.075/\$100.00 tax rate limitation, unless approved by an affirmative vote of majority of the qualified voters of the Village of Lake James.
- A prohibition on extraterritorial jurisdiction (ETJ) powers.
- A prohibition on involuntary annexation within Burke County and a prohibition on voluntary or involuntary annexation in McDowell County.
- That any zoning ordinance adopted by the Village shall be equal to or greater than the regulations and restrictions that are in the Shoreline Protection Plan of the Burke County zoning ordinance that was in effect on January 1, 2009.
- That the Village shall not adopt any ordinances, resolutions, or rules that restrict public access to Lake James.
- That the Village will not engage in any activity that interferes with the Federal Energy Regulatory Commission (FERC) relicensing process for the Catawba Wateree Hydroelectric Project.
- That the Village shall not adopt any ordinances, resolutions, or rules that restrict, repeal, or interfere in any way with the terms of any specified agreements between Burke County and the federal government or any other entity related to greenways, bicycle or walking trails, and parking areas and in existence or being negotiated on March 11, 2009.
- That the Village shall not hold a malt beverage, unfortified wine, ABC store, or mixed beverage election.
- That the Village may exercise the power of eminent domain only for the public use, and shall not take private property for the purpose of conveying an interest in the property to a third party for economic development.

**EFFECTIVE DATE:** This act is effective when it becomes law.

**BACKGROUND:** The proposed incorporation of the Village of Lake James did not receive a favorable recommendation from the Joint Legislative Commission on Municipal Incorporation in its report, dated July 29, 2009, because the Commission found that the proposed Village did not meet the Commission standards for contiguity.

*Giles Perry, counsel to House Government Committee substantially contributed to this summary.*